
By: **Chairman, Health and Government Operations Committee**

Introduced and read first time: February 7, 2003

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupations - State Board of Physician Quality Assurance - Sunset**
3 **Extension and Program Evaluation**

4 FOR the purpose of continuing the State Board of Physician Quality Assurance (the
5 Board) in accordance with the provisions of the Maryland Program Evaluation
6 Act by extending to a certain date the termination provisions relating to the
7 statutory and regulatory authority of the Board; requiring that an evaluation of
8 the Board and the statutes and regulations that relate to the Board be
9 performed on or before a certain date; repealing a provision requiring the Health
10 Claims Arbitration Office to forward certain information to the Medical and
11 Chirurgical Faculty of Maryland (the Faculty); adding certain members to the
12 membership of the Board; altering the requirements for the consumer members
13 of the Board; altering the appointment process for certain physician members of
14 the Board; requiring the Board to provide a certain notice of a vacancy of certain
15 members of the Board, to provide a certain process for a licensed physician to
16 submit a certain petition, and to forward a list of all licensed physicians
17 submitting certain valid petitions to the Governor; authorizing the Governor to
18 make certain reappointments to the Board or to make an appointment to the
19 Board from lists submitted by certain organizations or from a certain list
20 forwarded by the Board; repealing a provision of law requiring the chairman of
21 the Board to be appointed by the Governor; providing for the chairman of the
22 Board to be elected by the members of the Board; requiring fees charged by the
23 Board to approximate the costs of maintaining the Board; requiring certain
24 interest and other investment income to be paid into the Board of Physician
25 Quality Assurance Fund (the Fund); requiring the Board to fund the budget of
26 the Physician Rehabilitation Committee with fees collected and distributed to
27 the Fund; authorizing the Board to allocate moneys from the Fund after review
28 and approval of a certain budget; repealing provisions of law requiring the
29 Faculty to conduct certain investigations and peer review and to provide certain
30 malpractice information to the Board; requiring the Board to enter into a
31 written contract with a certain entity to provide certain investigation and peer
32 review services under certain circumstances; establishing certain minimum
33 qualifications for peer reviewers conducting a peer review; prohibiting a certain
34 agreement for corrective action from being used under certain circumstances;
35 specifying that the members of the Physician Rehabilitation Committee are

1 appointed by the Faculty; requiring the chairman of the Board to appoint a
2 member to serve as a liaison to the Physician Rehabilitation Committee;
3 authorizing the chairman of the Board to appoint a certain subcommittee of the
4 Board to conduct certain hearings in a certain manner; altering certain
5 requirements for licensee profiles created by the Board; requiring the Board to
6 maintain a single website containing certain information; modifying the
7 termination provision for the Maryland Respiratory Care Practitioners Act;
8 altering the manner in which the Comptroller of the State distributes certain
9 fees; defining a certain term; specifying the terms of certain members of the
10 Board; requiring the Board to submit a certain report on investigative caseloads
11 by a certain date; requiring the Board and the Office of the Attorney General to
12 review a certain process, propose a certain joint plan, make certain
13 recommendations, and submit a certain report by a certain date; requiring the
14 Board to submit a certain report on the financial condition of the Board by a
15 certain date; exempting the Board from certain provisions of law requiring a
16 certain preliminary evaluation; requiring the use of an additional reviewer if
17 certain peer reviewers do not reach an agreement; providing for a delayed
18 effective date for certain provisions of this Act and providing that certain
19 provisions of this Act are contingent on the Governor including certain funds in
20 the budget in a certain year; and generally relating to the State Board of
21 Physician Quality Assurance.

22 BY repealing and reenacting, with amendments,
23 Article - Courts and Judicial Proceedings
24 Section 3-2A-04(a)
25 Annotated Code of Maryland
26 (2002 Replacement Volume)

27 BY repealing and reenacting, with amendments,
28 Article - Health Occupations
29 Section 14-101, 14-202, 14-203, 14-207, 14-321(e), 14-401, 14-402, 14-405,
30 14-406, 14-411.1, 14-5A-25, and 14-702
31 Annotated Code of Maryland
32 (2000 Replacement Volume and 2002 Supplement)

33 BY repealing and reenacting, without amendments,
34 Article - Health Occupations
35 Section 14-404(a)(22)
36 Annotated Code of Maryland
37 (2000 Replacement Volume and 2002 Supplement)

38 BY repealing and reenacting, with amendments,
39 Article - State Government
40 Section 8-403(b)(51)
41 Annotated Code of Maryland
42 (1999 Replacement Volume and 2002 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Health Occupations
3 Section 14-207(c)
4 Annotated Code of Maryland
5 (2000 Replacement Volume and 2002 Supplement)
6 (As enacted by Section 1 of this Act)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Courts and Judicial Proceedings**

10 3-2A-04.

11 (a) (1) A person having a claim against a health care provider for damage
12 due to a medical injury shall file his claim with the Director, and, if the claim is
13 against a physician, the Director shall forward copies of the claim to the State Board
14 of Physician Quality Assurance [and the Medical and Chirurgical Faculty of the State
15 of Maryland]. The Director shall cause a copy of the claim to be served upon the
16 health care provider by the appropriate sheriff in accordance with the Maryland
17 Rules. The health care provider shall file a response with the Director and serve a
18 copy on the claimant and all other health care providers named therein within the
19 time provided in the Maryland Rules for filing a responsive pleading to a complaint.
20 The claim and the response may include a statement that the matter in controversy
21 falls within one or more particular recognized specialties.

22 (2) A third-party claim shall be filed within 30 days of the response of
23 the third-party claimant to the original claim unless the parties consent to a later
24 filing or a later filing is allowed by the panel chairman for good cause shown.

25 (3) A claimant may not add a new defendant after the arbitration panel
26 has been selected, or 10 days after the prehearing conference has been held,
27 whichever is later.

28 (4) Until all costs attributable to the first filing have been satisfied, a
29 claimant may not file a second claim on the same or substantially the same grounds
30 against any of the same parties.

31 **Article - Health Occupations**

32 14-101.

33 (a) In this title the following words have the meanings indicated.

34 (b) "Board" means the State Board of Physician Quality Assurance.

35 (c) "Civil action" includes a health care malpractice claim under Title 3,
36 Subtitle 2A of the Courts Article.

1 (d) "Faculty" means the Medical and Chirurgical Faculty of the State of
2 Maryland.

3 (e) "Hospital" has the meaning stated in § 19-301 of the Health - General
4 Article.

5 (f) "License" means, unless the context requires otherwise, a license issued by
6 the Board to practice medicine.

7 (g) "Licensed physician" means, unless the context requires otherwise, a
8 physician, including a doctor of osteopathy, who is licensed by the Board to practice
9 medicine.

10 (h) "Licensee" means an individual to whom a license is issued, including an
11 individual practicing medicine within or as a professional corporation or professional
12 association.

13 (i) "Perform acupuncture" means to stimulate a certain point or points on or
14 near the surface of the human body by the insertion of needles to prevent or modify
15 the perception of pain or to normalize physiological functions, including pain control,
16 for the treatment of ailments or conditions of the body.

17 (j) "Physician" means an individual who practices medicine.

18 (k) "PHYSICIAN REHABILITATION COMMITTEE" MEANS THE COMMITTEE OF
19 FACULTY THAT EVALUATES AND PROVIDES ASSISTANCE TO IMPAIRED PHYSICIANS
20 IN NEED OF TREATMENT AND REHABILITATION FOR ALCOHOLISM, CHEMICAL
21 DEPENDENCY, OR OTHER PHYSICAL, EMOTIONAL, OR MENTAL CONDITIONS.

22 (L) (1) "Practice medicine" means to engage, with or without compensation,
23 in medical:

24 (i) Diagnosis;

25 (ii) Healing;

26 (iii) Treatment; or

27 (iv) Surgery.

28 (2) "Practice medicine" includes doing, undertaking, professing to do,
29 and attempting any of the following:

30 (i) Diagnosing, healing, treating, preventing, prescribing for, or
31 removing any physical, mental, or emotional ailment or supposed ailment of an
32 individual:

33 1. By physical, mental, emotional, or other process that is
34 exercised or invoked by the practitioner, the patient, or both; or

35 2. By appliance, test, drug, operation, or treatment;

- 1 (ii) Ending of a human pregnancy; and
- 2 (iii) Performing acupuncture.
- 3 (3) "Practice medicine" does not include:
- 4 (i) Selling any nonprescription drug or medicine;
- 5 (ii) Practicing as an optician; or
- 6 (iii) Performing a massage or other manipulation by hand, but by no
7 other means.

8 [(l)] (M) "Related institution" has the meaning stated in § 19-301 of the
9 Health - General Article.

10 14-202.

11 (a) (1) The Board shall consist of [15] 21 members appointed by the
12 Governor WITH THE ADVICE OF THE SECRETARY.

13 (2) Of the [15] 21 members:

14 (i) [10] 11 shall be practicing licensed physicians, AT LEAST ONE
15 OF WHOM SHALL BE A DOCTOR OF OSTEOPATHY, appointed [from a list submitted by
16 the Faculty] AS PROVIDED IN SUBSECTION (D) OF THIS SECTION;

17 (ii) 1 shall be a practicing licensed physician appointed at the
18 Governor's discretion;

19 (iii) 1 shall be a representative of the Department nominated by the
20 Secretary;

21 (IV) 1 SHALL BE A PRACTICING LICENSED PHYSICIAN WHO
22 PRACTICES COMPLEMENTARY AND ALTERNATIVE METHODS OF CARE APPOINTED AT
23 THE GOVERNOR'S DISCRETION WITH THE ADVICE OF THE SECRETARY;

24 (V) 1 SHALL BE A PRACTICING LICENSED PHYSICIAN APPOINTED
25 TO SERVE AS A REPRESENTATIVE OF AN ACADEMIC MEDICAL INSTITUTION IN THIS
26 STATE APPOINTED FROM A LIST CONTAINING:

27 1. 3 NAMES SUBMITTED BY THE JOHNS HOPKINS
28 UNIVERSITY SCHOOL OF MEDICINE; AND

29 2. 3 NAMES SUBMITTED BY THE UNIVERSITY OF MARYLAND
30 SCHOOL OF MEDICINE;

31 [(iv)] (VI) [2] 5 shall be consumer members appointed with the
32 advice and consent of the Senate; and

1 [(v)] (VII) 1 shall be a [consumer] PUBLIC member knowledgeable
2 in risk management or quality assurance matters appointed from a list submitted by
3 the Maryland Hospital Association.

4 (b) (1) Each consumer OR PUBLIC member of the Board:

5 [(1)] (I) Shall be a member of the general public;

6 (II) SHALL BE A RESIDENT OF THE STATE FOR AT LEAST 5 YEARS;

7 [(2)] (III) May not be or ever have been a physician or in training to
8 become a physician;

9 [(3)] (IV) May not have a household member who is a physician or in
10 training to become a physician;

11 [(4)] May not participate or ever have participated in a commercial or
12 professional field related to medicine;

13 (5) (V) May not have a household member who participates in a
14 commercial or professional field related to medicine; and

15 [(6)] (VI) May not have had within 2 years before appointment a
16 substantial financial interest in a person regulated by the Board.

17 (2) A CONSUMER MEMBER OF THE BOARD MAY NOT HAVE A
18 SUBSTANTIAL PERSONAL, BUSINESS, PROFESSIONAL, OR PECUNIARY CONNECTION
19 WITH A MEDICAL FIELD OR WITH AN INSTITUTION OF MEDICAL EDUCATION OR A
20 HEALTH CARE FACILITY.

21 (c) [For each initial vacancy of a member appointed from a list submitted by
22 the Faculty, the Faculty shall:

23 (1) Notify all licensed physicians in the State of the vacancy to solicit
24 nominations to fill the vacancy; and

25 (2) Conduct a balloting process to select the name of the licensed
26 physician that will be submitted to the Governor that provides all licensed physicians
27 in the State with an equal vote.

28 (d) Once appointed, a physician named on the list submitted by the Faculty
29 shall remain on the list for 2 consecutive full terms.

30 (e) While SERVING AS a member of the Board, [a] EACH consumer member
31 [may not have a substantial financial interest in a person regulated by the Board]
32 AND THE PUBLIC MEMBER SHALL CONTINUE TO MEET THE REQUIREMENTS OF
33 SUBSECTION (B) OF THIS SECTION.

34 (D) (1) FOR EACH VACANCY OF A LICENSED PHYSICIAN APPOINTED BY THE
35 GOVERNOR UNDER SUBSECTION (A)(2)(I) OF THIS SECTION, THE BOARD SHALL:

1 (I) NOTIFY ALL PRACTICING LICENSED PHYSICIANS AND
2 PROFESSIONAL ORGANIZATIONS REPRESENTING AT LEAST 25 LICENSED PHYSICIANS
3 IN THE STATE OF THE VACANCY;

4 (II) PROVIDE INFORMATION REGARDING THE SELECTION PROCESS
5 AS PROVIDED UNDER SUBSECTION (A)(2)(I) OF THIS SECTION;

6 (III) SOLICIT NOMINATIONS FOR THE VACANCY; AND

7 (IV) FORWARD TO THE GOVERNOR:

8 1. VALID NOMINATIONS SUBMITTED BY PROFESSIONAL
9 ORGANIZATIONS REPRESENTING AT LEAST 25 LICENSED PHYSICIANS IN THE STATE;
10 AND

11 2. VALID PETITIONS SUBMITTED BY PRACTICING LICENSED
12 PHYSICIANS SUPPORTING THE APPOINTMENT OF THE PHYSICIAN TO THE BOARD
13 THAT ARE SIGNED BY AT LEAST 25 PRACTICING LICENSED PHYSICIANS IN THE
14 STATE.

15 (2) THE BOARD SHALL MEET THE REQUIREMENTS OF PARAGRAPH (1) OF
16 THIS SUBSECTION WITHIN:

17 (I) 4 MONTHS PRIOR TO AN UPCOMING VACANCY ON THE BOARD;
18 OR

19 (II) 2 MONTHS AFTER A VACANCY EXISTS ON THE BOARD.

20 (E) FOR EACH VACANCY OF A PRACTICING LICENSED PHYSICIAN APPOINTED
21 BY THE GOVERNOR UNDER SUBSECTION (A)(2)(I) OF THIS SECTION, THE GOVERNOR:

22 (1) MAY:

23 (I) REAPPOINT A MEMBER WHO HAS NOT SERVED FOR MORE THAN
24 2 FULL CONSECUTIVE TERMS; OR

25 (II) APPOINT A PRACTICING LICENSED PHYSICIAN IN ACCORDANCE
26 WITH SUBSECTION (A)(2)(I) OF THIS SECTION FROM LISTS SUBMITTED BY THE BOARD
27 AS PROVIDED IN SUBSECTION (D)(1)(IV) OF THIS SECTION; AND

28 (2) MAY NOT REAPPOINT OR APPOINT A PRACTICING LICENSED
29 PHYSICIAN FROM A PARTICULAR MEDICAL SPECIALITY IF THERE ARE TWO CURRENT
30 MEMBERS SERVING ON THE BOARD FROM THE SAME MEDICAL SPECIALTY.

31 (f) Before taking office, each appointee to the Board shall take the oath
32 required by Article I, § 9 of the State Constitution.

33 (g) (1) The term of a member is 4 years[, except that the initial term of one
34 of the consumer members is 3 years].

1 (2) The terms of members are staggered as required by the terms
2 provided for members of the Board on July 1, [1988] 2003.

3 (3) At the end of a term, a member continues to serve until a successor is
4 appointed and qualifies.

5 (4) A member may not serve more than 2 consecutive full terms.

6 (h) (1) If a vacancy occurs as to a member, the Governor shall appoint a new
7 member to serve only for the rest of the term and until a successor is appointed and
8 qualifies.

9 (2) To the extent practicable, the Governor shall fill any vacancy on the
10 Board within 60 days of the date of the vacancy.

11 (i) (1) On the recommendation of the Board, the Secretary may remove any
12 member of the Board for neglect of duty, misconduct, malfeasance, or misfeasance in
13 office.

14 (2) Upon the recommendation of the Secretary, the Governor may
15 remove a member whom the Secretary finds to have been absent from 2 successive
16 Board meetings without adequate reason.

17 (3) The Governor may remove a member for incompetence or
18 misconduct.

19 14-203.

20 (a) [The Governor shall appoint the chairman of the Board from among the
21 physician members on the Board.

22 (b)] From among its members, the Board shall elect a CHAIRMAN,
23 secretary-treasurer, and any other officers that it considers necessary.

24 [(c)] (B) The Board shall determine:

25 (1) The manner of election of officers;

26 (2) The term of office of each officer; and

27 (3) The duties of each officer.

28 14-207.

29 (a) There is a Board of Physician Quality Assurance Fund.

30 (b) (1) The Board may set reasonable fees for the issuance and renewal of
31 licenses and its other services.

32 (2) THE FEES CHARGED SHALL BE SET SO AS TO APPROXIMATE THE
33 COST OF MAINTAINING THE BOARD.

1 (3) Funds to cover the compensation and expenses of the Board members
2 shall be generated by fees set under this section.

3 (c) (1) [Except for fees assessed in accordance with the provisions of §
4 14-402(e) of this title, the] THE Board shall pay all fees collected under the provisions
5 of this title to the Comptroller of the State.

6 (2) The Comptroller shall distribute:

7 (i) 14 percent of the fees received from the Board to the Office of
8 Student Financial Assistance to be used as follows:

9 1. One-half to make grants under the Health Manpower
10 Shortage Incentive Grant Program under § 18-803 of the Education Article; and

11 2. One-half to make grants under the Janet L. Hoffman
12 Loan Assistance Repayment Program under § 18-1502(c) of the Education Article to
13 physicians engaged in primary care or to medical residents specializing in primary
14 care who agree to practice for at least 2 years as primary care physicians in a
15 geographic area of the State that has been designated by the Secretary of Health and
16 Mental Hygiene as being medically underserved; and

17 (ii) The balance of the fees to the Board of Physician Quality
18 Assurance Fund.

19 (d) (1) The Fund shall be used exclusively to cover the actual documented
20 direct and indirect costs of fulfilling the statutory and regulatory duties of the Board
21 as provided by the provisions of this title.

22 (2) (i) The Fund is a continuing, nonlapsing fund, not subject to §
23 7-302 of the State Finance and Procurement Article.

24 (ii) Any unspent portions of the Fund may not be transferred or
25 revert to the General Fund of the State, but shall remain in the Fund to be used for
26 the purposes specified in this title.

27 (3) INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT OF
28 MONEYS IN THE FUND SHALL BE PAID INTO THE FUND.

29 (4) No other State money may be used to support the Fund.

30 (e) (1) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (D) OF THIS
31 SECTION, THE BOARD SHALL FUND THE BUDGET OF THE PHYSICIAN
32 REHABILITATION COMMITTEE WITH FEES SET, COLLECTED, AND DISTRIBUTED TO
33 THE FUND UNDER THIS TITLE.

34 (2) AFTER REVIEW AND APPROVAL BY THE BOARD OF A BUDGET
35 SUBMITTED BY THE PHYSICIAN REHABILITATION COMMITTEE, THE BOARD MAY
36 ALLOCATE MONEYS FROM THE FUND TO THE PHYSICIAN REHABILITATION
37 COMMITTEE.

1 (F) (1) The chairman of the Board or the designee of the chairman shall
2 administer the Fund.

3 (2) Moneys in the Fund may be expended only for any lawful purpose
4 authorized by the provisions of this title.

5 [(f)] (G) The Legislative Auditor shall audit the accounts and transactions of
6 the Fund as provided in § 2-1220 of the State Government Article.

7 14-321.

8 (e) (1) Subject to the requirements of the Administrative Procedure Act, the
9 Board on the affirmative vote of its full authorized membership, may reprimand a
10 restricted license holder, may place any restricted license holder on probation, or
11 suspend or revoke a restricted license for any of the grounds for Board action under §
12 14-404 of this title.

13 (2) **THE BOARD MAY ONLY DISMISS A CASE AGAINST A RESTRICTED**
14 **LICENSE HOLDER ON THE AFFIRMATIVE VOTE OF ITS FULL AUTHORIZED**
15 **MEMBERSHIP.**

16 14-401.

17 (a) The Board shall perform any necessary preliminary investigation before
18 the Board refers to an investigatory body an allegation of grounds for disciplinary or
19 other action brought to its attention.

20 (b) If an allegation of grounds for disciplinary or other action is made by a
21 patient or a family member of a patient [in a standard of care case] **BASED ON §**
22 **14-404(A)(22) OF THIS TITLE** and a full investigation results from that allegation, the
23 full investigation shall include an offer of an interview with the patient or a family
24 member of the patient who was present on or about the time that the incident that
25 gave rise to the allegation occurred.

26 (c) (1) Except as otherwise provided in this subsection, after performing any
27 necessary preliminary investigation of an allegation of grounds for disciplinary or
28 other action, the Board may:

29 (i) Refer the allegation for further investigation to the [Faculty]
30 **ENTITY THAT HAS CONTRACTED WITH THE BOARD UNDER SUBSECTION (E) OF THIS**
31 **SECTION;**

32 (ii) Take any appropriate and immediate action as necessary; or

33 (iii) Come to an agreement for corrective action with a licensee
34 pursuant to paragraph (4) of this subsection.

35 (2) [(i)] After performing any necessary preliminary investigation of an
36 allegation of grounds for disciplinary or other action, the Board shall refer any
37 allegation [involving standards of medical care, as determined by the Board, and any

1 allegation based on § 14-404(a)(19) to the Faculty] BASED ON § 14-404(A)(22) OF THIS
 2 SUBTITLE TO THE ENTITY OR ENTITIES THAT HAVE CONTRACTED WITH THE BOARD
 3 UNDER SUBSECTION (E) OF THIS SECTION for further investigation and physician
 4 peer review within the involved medical specialty or specialties.

5 [(ii) The Faculty may refer the allegation for investigation and
 6 report to the appropriate:

- 7 1. County medical society; or
- 8 2. Committee of the Faculty.]

9 (3) If, after performing any necessary preliminary investigation, the
 10 Board determines that an allegation involving fees for professional or ancillary
 11 services does not constitute grounds for disciplinary or other action, the Board shall
 12 offer the complainant and the licensee an opportunity to mediate the dispute.

13 (4) (i) [If the Board determines that an agreement for corrective
 14 action is warranted and patient safety is not an issue, the Board shall notify the
 15 licensee of the identified deficiencies and enter into an agreement for corrective
 16 action, which may not be made public and which shall not be considered a disciplinary
 17 action for purposes of this subtitle.] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF
 18 THIS PARAGRAPH, THE BOARD:

19 1. MAY DETERMINE THAT AN AGREEMENT FOR CORRECTIVE
 20 ACTION IS WARRANTED; AND

21 2. SHALL NOTIFY THE LICENSEE OF THE IDENTIFIED
 22 DEFICIENCIES AND ENTER INTO AN AGREEMENT FOR CORRECTIVE ACTION WITH
 23 THE LICENSEE AS PROVIDED IN THIS PARAGRAPH.

24 (II) THE BOARD MAY NOT ENTER INTO AN AGREEMENT FOR
 25 CORRECTIVE ACTION WITH A LICENSEE IF PATIENT SAFETY IS AN ISSUE.

26 [(ii) (III) The Board shall subsequently evaluate the licensee and
 27 shall:

28 1. Terminate the corrective action if the Board is satisfied
 29 that the licensee is in compliance with the agreement for corrective action and has
 30 corrected the deficiencies; or

31 2. Pursue disciplinary action under § 14-404 of this subtitle
 32 if the deficiencies persist or the licensee has failed to comply with the agreement for
 33 corrective action.

34 (IV) AN AGREEMENT FOR CORRECTIVE ACTION UNDER THIS
 35 PARAGRAPH MAY NOT BE MADE PUBLIC OR CONSIDERED A DISCIPLINARY ACTION
 36 UNDER THIS TITLE.

1 [(iii)] (V) The Board shall provide a summary of the corrective
2 action agreements in the executive director's report of Board activities.

3 (d) [(1)] The Faculty, all committees of the Faculty, except the physician
4 rehabilitation committee, and all county medical societies shall refer to the Board all
5 complaints that set forth allegations of grounds for disciplinary action under § 14-404
6 of this subtitle.

7 [(2)] If the Faculty determines that 3 or more malpractice claims have
8 been filed against an individual licensed physician under § 3-2A-04(a) of the Courts
9 and Judicial Proceedings Article within a 5-year period, the Faculty shall submit the
10 name of the individual licensed physician to the Board and, subject to the approval of
11 the Board, shall refer the claims to the Faculty's appropriate committee for
12 investigation and report to the Board as if the Board had referred the claims to the
13 committee of the Faculty.

14 (e) (1) (i) Unless the Board grants an extension, the medical society or
15 Faculty committee shall report to the Board on its investigation within 90 days after
16 the referral.

17 (ii) However, if the investigatory body does not complete its report
18 within 90 days, the Board may refer the allegation to another investigatory body.

19 (2) The report shall contain the information and recommendations
20 necessary for appropriate action by the Board.

21 (3) On receipt of the report, the Board shall consider the
22 recommendations made in the report and take the action, including further
23 investigation, that it finds appropriate under this title.]

24 (E) THE BOARD SHALL ENTER INTO A WRITTEN CONTRACT WITH AN ENTITY
25 OR ENTITIES FOR FURTHER INVESTIGATION AND PHYSICIAN PEER REVIEW OF
26 ALLEGATIONS BASED ON § 14-404(A)(22) OF THIS TITLE.

27 (F) THE WRITTEN CONTRACT ENTERED INTO UNDER SUBSECTION (E) OF THIS
28 SECTION SHALL REQUIRE, AT A MINIMUM, THAT THE PEER REVIEWERS
29 CONDUCTING THE PEER REVIEW:

30 (1) ARE SELECTED FROM THE SAME MEDICAL SPECIALTY AS THE
31 LICENSEE UNDER REVIEW;

32 (2) ARE BOARD CERTIFIED;

33 (3) HAVE A SPECIFIED AMOUNT OF MEDICAL EXPERIENCE;

34 (4) HAVE NO FORMAL BOARD ACTIONS AGAINST THEIR LICENSE;

35 (5) RECEIVE PEER REVIEW TRAINING; AND

36 (6) HAVE A STANDARD FORMAT FOR PEER REVIEW REPORTS.

1 [(f)] (G) (1) To facilitate the investigation and prosecution of disciplinary
2 matters and the mediation of fee disputes coming before it, the Board may:

3 (i) Contract with the Faculty, its committees, and the component
4 medical societies for the purchase of investigatory, mediation, and related services;
5 and

6 (ii) Contract with others for the purchase of investigatory,
7 mediation, and related services and make these services available to the Faculty, its
8 committees, and the component medical societies.

9 (2) Services that may be contracted for under this subsection include the
10 services of:

11 (i) Investigators;

12 (ii) Attorneys;

13 (iii) Accountants;

14 (iv) Expert witnesses;

15 (v) Consultants; and

16 (vi) Mediators.

17 [(g)] (H) The Board may issue subpoenas and administer oaths in connection
18 with any investigation under this section and any hearing or proceeding before it.

19 [(h)] (I) Those individuals not licensed under this title but covered under §
20 14-413(a)(1)(ii)3 and 4 of this subtitle are subject to the hearing provisions of §
21 14-405 of this subtitle.

22 [(i)] (J) (1) It is the intent of this section that the disposition of every
23 complaint against a licensee that sets forth allegations of grounds for disciplinary
24 action filed with the Board shall be completed as expeditiously as possible and, in any
25 event, within 18 months after the complaint was received by the Board.

26 (2) If the Board is unable to complete the disposition of a complaint
27 within 1 year, the Board shall include in the record of that complaint a detailed
28 explanation of the reason for the delay.

29 14-402.

30 (a) In reviewing an application for licensure, certification, or registration or in
31 investigating an allegation brought against a licensed physician or any allied health
32 professional regulated by the Board under this title, the [medical society or Faculty]
33 PHYSICIAN REHABILITATION committee may request the Board to direct, or the
34 Board on its own initiative may direct, the licensed physician or any allied health
35 professional regulated by the Board under this title to submit to an appropriate
36 examination.

1 (b) In return for the privilege given by the State issuing a license,
2 certification, or registration, the licensed, certified, or registered individual is deemed
3 to have:

4 (1) Consented to submit to an examination under this section, if
5 requested by the Board in writing; and

6 (2) Waived any claim of privilege as to the testimony or examination
7 reports.

8 (c) The unreasonable failure or refusal of the licensed, certified, or registered
9 individual to submit to an examination is prima facie evidence of the licensed,
10 certified, or registered individual's inability to practice medicine or the respective
11 discipline competently, unless the Board finds that the failure or refusal was beyond
12 the control of the licensed, certified, or registered individual.

13 (d) The Board shall pay the costs of any examination made under this section.

14 (e) (1) [(i) The Board shall assess each applicant for a license to practice
15 medicine or for renewal of a license to practice medicine a fee of not more than \$50 to
16 be set after the submission of a budget for the physician rehabilitation program and
17 peer review activities by the Faculty to the Board.

18 (ii) The fee is to be used to fund the physician rehabilitation
19 program and peer review activities of the Faculty, as approved by the Secretary.

20 (iii) The Board shall set a fee under this subsection in accordance
21 with the budget submitted by the Faculty.] THE FACULTY SHALL APPOINT THE
22 MEMBERS OF THE PHYSICIAN REHABILITATION COMMITTEE.

23 (2) THE CHAIRMAN OF THE BOARD SHALL APPOINT ONE MEMBER OF
24 THE BOARD TO SERVE AS LIAISON TO THE PHYSICIAN REHABILITATION COMMITTEE.

25 (F) THE BOARD SHALL FUND THE BUDGET OF THE PHYSICIAN
26 REHABILITATION COMMITTEE AS PROVIDED IN § 14-207 OF THIS TITLE.

27 [(2)] (G) The Legislative Auditor shall every 2 years audit the accounts
28 and transactions of the [Faculty for the physician rehabilitation program and peer
29 review activities] PHYSICIAN REHABILITATION COMMITTEE as provided in § 2-1220
30 of the State Government Article.

31 14-404.

32 (a) Subject to the hearing provisions of § 14-405 of this subtitle, the Board, on
33 the affirmative vote of a majority of its full authorized membership, may reprimand
34 any licensee, place any licensee on probation, or suspend or revoke a license if the
35 licensee:

1 (22) Fails to meet appropriate standards as determined by appropriate
2 peer review for the delivery of quality medical and surgical care performed in an
3 outpatient surgical facility, office, hospital, or any other location in this State;

4 14-405.

5 (a) Except as otherwise provided in the Administrative Procedure Act, before
6 the Board takes any action under § 14-404(a) of this subtitle or § 14-5A-17(a) of this
7 title, it shall give the individual against whom the action is contemplated an
8 opportunity for a hearing before a hearing officer OR THE SUBCOMMITTEE OF THE
9 BOARD ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION.

10 (B) THE CHAIRMAN OF THE BOARD MAY DELEGATE THE AUTHORITY TO
11 CONDUCT A HEARING TO A SUBCOMMITTEE CONSISTING OF THREE OR MORE BOARD
12 MEMBERS.

13 [(b)] (C) The hearing officer OR THE SUBCOMMITTEE OF THE BOARD shall
14 give notice and hold the hearing in accordance with the Administrative Procedure Act
15 [except that factual findings shall be supported by clear and convincing evidence].

16 [(c)] (D) The individual may be represented at the hearing by counsel.

17 [(d)] (E) If after due notice the individual against whom the action is
18 contemplated fails or refuses to appear, nevertheless the hearing officer OR THE
19 SUBCOMMITTEE OF THE BOARD may hear and refer the matter to the Board for
20 disposition.

21 [(e)] (F) After performing any necessary hearing under this section, the
22 hearing officer OR THE SUBCOMMITTEE OF THE BOARD shall refer proposed factual
23 findings to the Board for the Board's disposition.

24 [(f)] (G) The Board may adopt regulations to govern the taking of depositions
25 and discovery in the hearing of charges.

26 [(g)] (H) The hearing of charges may not be stayed or challenged by any
27 procedural defects alleged to have occurred prior to the filing of charges.

28 14-406.

29 (a) Following the filing of charges, if a majority of the full authorized
30 membership of the Board finds that there are grounds for action under § 14-404 of
31 this subtitle, the Board shall pass an order in accordance with the Administrative
32 Procedure Act.

33 (b) After the charges are filed, if the Board finds, ON AN AFFIRMATIVE VOTE
34 OF ITS FULL AUTHORIZED MEMBERSHIP, that there are no grounds for action under §
35 14-404 of this subtitle, the Board:

36 (1) Immediately shall dismiss the charges and exonerate the licensee;

1 (2) (i) Except as provided in item (ii) of this paragraph, shall expunge
2 all records of the charges 3 years after the charges are dismissed; or

3 (ii) If the physician executes a document releasing the Board from
4 any liability related to the charges, shall immediately expunge all records of the
5 charges; and

6 (3) May not take any further action on the charges.

7 14-411.1.

8 (a) [(1)] In this section, "health maintenance organization" has the meaning
9 stated in § 19-701 of the Health - General Article.

10 (b) The Board shall create [an] AND MAINTAIN A PUBLIC individual profile on
11 each licensee that includes the following information:

12 (1) A description of any FINAL disciplinary action taken by the Board
13 against the licensee within the most recent 10-year period as reported to the National
14 Practitioner Data Bank THAT INCLUDES A COPY OF THE PUBLIC ORDER;

15 (2) A description of any final disciplinary action taken by a licensing
16 board in any other state or jurisdiction against the licensee within the most recent
17 10-year period as reported to the National Practitioner Data Bank;

18 (3) A DESCRIPTION OF A CONVICTION, OR ENTRY OF A PLEA OF GUILTY
19 OR NOLO CONTENDERE BY THE LICENSEE FOR A CRIME INVOLVING MORAL
20 TURPITUDE REPORTED TO THE BOARD UNDER § 14-413(B) OF THIS SUBTITLE; AND

21 (4) MEDICAL EDUCATION AND PRACTICE INFORMATION ABOUT THE
22 LICENSEE INCLUDING:

23 [(3)] (I) The name of any medical school that the licensee attended and
24 the date on which the licensee graduated from the school;

25 [(4)] (II) A description of any internship and residency training;

26 [(5)] (III) A description of any specialty board certification by a
27 recognized board of the American Board of Medical Specialties or the American
28 Osteopathic Association;

29 [(6)] (IV) The name of any hospital where the licensee has medical
30 privileges as reported to the Board under § 14-413 of this subtitle;

31 [(7)] (V) The location of the licensee's primary practice setting; and

32 [(8)] (VI) Whether the licensee participates in the Maryland Medical
33 Assistance Program.

34 (c) In addition to the requirements of subsection (b) of this section, the Board
35 shall:

1 (1) [provide] PROVIDE appropriate and accessible Internet links from
2 the Board's Internet site:

3 [(1)] (I) To the extent available, to the appropriate portion of the
4 Internet site of each health maintenance organization licensed in this State which
5 will allow the public to ascertain the names of the physicians affiliated with the
6 health maintenance organization; and

7 [(2)] (II) To the appropriate portion of the Internet site of the American
8 Medical Association; AND

9 (2) INCLUDE A STATEMENT ON EACH LICENSEE'S PROFILE OF
10 INFORMATION TO BE TAKEN INTO CONSIDERATION BY A CONSUMER WHEN VIEWING
11 A LICENSEE'S PROFILE.

12 (d) The Board:

13 (1) On receipt of a written request for a licensee's profile from any
14 person, shall forward a written copy of the profile to the person; and

15 (2) Shall [make all profiles] MAINTAIN A WEBSITE THAT SERVES AS A
16 SINGLE POINT OF ENTRY WHERE ALL PHYSICIAN PROFILE INFORMATION IS
17 available to the public on the Internet.

18 (e) [Subject to subsection (f) of this section, before making a profile initially
19 available to the public under subsection (d) of this section, the Board shall:

20 (1) Unless the licensee authorizes and requests a copy of the licensee's
21 profile by electronic means, provide a licensee with a written copy of the licensee's
22 profile; and

23 (2) Provide a reasonable period for the licensee to correct any factual
24 inaccuracies in the profile.] THE BOARD SHALL PROVIDE A MECHANISM FOR THE
25 NOTIFICATION AND PROMPT CORRECTION OF ANY FACTUAL INACCURACIES IN A
26 LICENSEE'S PROFILE.

27 (f) The Board shall include information relating to a final disciplinary action
28 taken by the Board against a licensee in the licensee's profile within 10 days after the
29 action becomes final.

30 (g) This section does not limit the Board's authority to disclose information as
31 required under § 14-411 of this subtitle.

32 14-5A-25.

33 Subject to the evaluation and reestablishment provisions of the Maryland
34 Program Evaluation Act AND SUBJECT TO THE TERMINATION OF THIS TITLE UNDER
35 § 14-702 OF THIS TITLE, this subtitle and all rules and regulations adopted under this
36 subtitle shall terminate and be of no effect after July 1, 2006.

1 14-702.

2 Subject to the evaluation and reestablishment provisions of the Program
3 Evaluation Act, this title and all rules and regulations adopted under this title shall
4 terminate and be of no effect after July 1, [2003] 2008.

5 **Article - State Government**

6 8-403.

7 (b) Except as otherwise provided in subsection (a) of this section, on or before
8 the evaluation date for the following governmental activities or units, an evaluation
9 shall be made of the following governmental activities or units and the statutes and
10 regulations that relate to the governmental activities or units:

11 (51) Physician Quality Assurance, State Board of (§ 14-201 of the Health
12 Occupations Article: July 1, [2002] 2007);

13 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
14 read as follows:

15 **Article - Health Occupations**

16 14-207.

17 (c) (1) [Except for fees assessed in accordance with the provisions of §
18 14-402(e) of this title, the] THE Board shall pay all fees collected under the provisions
19 of this title to the Comptroller of the State.

20 (2) The Comptroller shall distribute[:

21 (i) 14 percent of the fees received from the Board to the Office of
22 Student Financial Assistance to be used as follows:

23 1. One-half to make grants under the Health Manpower
24 Shortage Incentive Grant Program under § 18-803 of the Education Article; and

25 2. One-half to make grants under the Janet L. Hoffman
26 Loan Assistance Repayment Program under § 18-1502(c) of the Education Article to
27 physicians engaged in primary care or to medical residents specializing in primary
28 care who agree to practice for at least 2 years as primary care physicians in a
29 geographic area of the State that has been designated by the Secretary of Health and
30 Mental Hygiene as being medically underserved; and

31 (ii) The balance of] the fees to the Board of Physician Quality
32 Assurance Fund.

33 SECTION 3. AND BE IT FURTHER ENACTED, That the term of office of the
34 members of the State Board of Physician Quality Assurance who are serving on the
35 Board on the effective date of this Act shall expire as follows:

- 1 (1) Four physician members and one consumer member in 2003;
- 2 (2) Four physician members and one consumer member in 2004; and
- 3 (3) Three physician members, the representative of the Department, and one
4 consumer member in 2005.

5 SECTION 4. AND BE IT FURTHER ENACTED, That the terms of the
6 additional six members appointed to the State Board of Physician Quality Assurance
7 shall expire as follows:

- 8 (1) one consumer member and one physician member in 2004; and
- 9 (2) two consumer members and two physician members in 2006.

10 SECTION 5. AND BE IT FURTHER ENACTED, That the terms of the
11 members of the State Board of Physician Quality Assurance appointed to replace
12 those members whose terms expire:

- 13 (1) in 2003, shall expire in 2007;
- 14 (2) in 2004, shall expire in 2008; and
- 15 (3) in 2005, shall expire in 2009.

16 SECTION 6. AND BE IT FURTHER ENACTED, That the State Board of
17 Physician Quality Assurance shall report to the Governor, the Senate Education,
18 Health, and Environmental Affairs Committee, the Senate Budget and Taxation
19 Committee, the House Health and Government Operations Committee, and the
20 House Appropriations Committee on or before November 1, 2003, in accordance with
21 § 2-1246 of the State Government Article, on the financial condition of the Board,
22 including a review of the impact of any legislation enacted in 2003 and a review of the
23 impact of any procedural, regulatory, or other changes implemented by the Board. If
24 the Board determines that legislation enacted in 2003 will not resolve the financial
25 condition of the Board, the report shall detail how the Board intends to:

- 26 (1) stabilize long-term finances of the Board;
- 27 (2) achieve necessary fund balances; and
- 28 (3) fully meet the responsibilities and mission of the Board.

29 SECTION 7. AND BE IT FURTHER ENACTED, That the State Board of
30 Physician Quality Assurance shall report to the Governor, the Senate Education,
31 Health, and Environmental Affairs Committee, and the House Health and
32 Government Operations Committee on or before January 1, 2004, in accordance with
33 § 2-1246 of the State Government Article, on investigative caseloads of Board
34 investigators including:

- 35 (1) the optimal level of caseloads;

- 1 (2) additional tools required to improve investigator productivity;
- 2 (3) a fiscal estimate of the resources required to meet optimal caseload levels
3 and provide necessary tools to improve productivity; and
- 4 (4) a detailed plan to address the expenditures identified in the fiscal
5 estimate.

6 SECTION 8. AND BE IT FURTHER ENACTED, That, on or before January 1,
7 2003, the State Board of Physician Quality Assurance and the Office of the Attorney
8 General (OAG) shall:

- 9 (1) review all aspects of the Board investigative processes;
- 10 (2) recommend a revised investigative process that will ensure in a consistent
11 manner that all cases transmitted to the OAG are fully investigated and developed to
12 the satisfaction of both the Board and the OAG so that cases can proceed with the
13 minimum of additional delay after transmittal; and
- 14 (3) in accordance with § 2-1246 of the State Government Article, report to the
15 Governor, the Senate Education, Health, and Environmental Affairs Committee, and
16 the House Health and Government Operations Committee on the findings,
17 recommendations, and any legislative or regulatory changes necessary to implement
18 the recommended changes.

19 SECTION 9. AND BE IT FURTHER ENACTED, That the entity or entities
20 with which the State Board of Physician Quality Assurance contracts under §
21 14-401(e) of the Health Occupations Article, as enacted by Section 1 of this Act, for
22 further investigation and peer review of allegations based on § 14-404(a)(22) of the
23 Health Occupations Article shall, in the event of a lack of agreement between the two
24 reviewers, use a third reviewer to reach a final peer review decision.

25 SECTION 10. AND BE IT FURTHER ENACTED, That Section 2 of this Act
26 shall take effect July 1, 2004 contingent on the Governor including in the budget for
27 fiscal year 2005 at least \$750,000 for the operation of the Health Manpower Shortage
28 Incentive Grant Program and the Janet L. Hoffman Loan Assistance Repayment
29 Program - Primary Care Services administered by the Maryland Higher Education
30 Commission.

31 SECTION 11. AND BE IT FURTHER ENACTED, That the provisions of §
32 8-404 of the State Government Article requiring a preliminary evaluation do not
33 apply to the State Board of Physician Quality Assurance prior to the evaluation
34 required on or before July 1, 2007.

35 SECTION 12. AND BE IT FURTHER ENACTED, That, except as provided in
36 Section 10 of this Act, this Act shall take effect July 1, 2003.